

December 14, 2010

## ELECTRONIC FILING

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: Notice of *Ex Parte* Meetings, GN Docket No. 09-191, WC Docket No. 07-52

Dear Ms. Dortch:

On December 14, 2010, I, Barbara van Schewick, talked by telephone with Zac Katz, Legal Advisor to the Chairman for Wireline Communications, International and Internet Issues. We discussed the importance of application-blindness as one of the factors that has fostered application innovation in the past, the need for a non-discrimination rule that bans all application-specific discrimination (i.e. based on application or class of application), and the need for a reasonable network management exception that requires reasonable network management to be as application-agnostic as possible based on the reasons discussed in my prior filings in this proceeding.<sup>1</sup>

We also discussed what happened in Sweden when the Swedish regulator finally decided (after having considered network neutrality rules) that disclosure was enough. As I explained in my blog post that I filed in this proceeding yesterday,<sup>2</sup> "The ongoing network neutrality debate motivated network providers' to stay away from discrimination in order not to fuel the debate. An order that explicitly determines that only the blocking of a restricted set of applications, content and services should be prohibited at this time may fundamentally change this calculus. After all, if the FCC thinks this type of behavior is o.k., why not engage in it? Skype's experience (pdf, p. 7) in Sweden underscores this point: Until last year, mobile operators in Sweden generally allowed the use of Skype over the mobile Internet. But since the Swedish regulator decided at the beginning of this year that rules that require network providers to disclose any blocking or discrimination are all that's needed to protect innovators and users, both leading mobile operators have introduced restrictions on users' ability to use Skype."

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<sup>1</sup> See, for example, van Schewick, *ex parte* letter (September 20, 2010) or van Schewick, *ex parte* letter (December 10, 2010).

<sup>2</sup> The blog post is also available at <http://netarchitecture.org/2010/12/the-fccs-open-internet-proposal-lessons-from-silicon-valley/>.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Barbara van Schewick

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cc:

Zac Katz